

IN THE HIGH COURT OF SINDH, KARACHI

CP. No. D- 6629 of 2018

Date Order with Signature(s) of Judge(s)

Direction

For hearing of Misc. No.27609 of 2019 (Contempt)

20.01.2022

Mr. Ahmed Ali Ghumro, advocate for the petitioner
Mr. Samiullah Soomro, advocate for respondents 3 & 4
Mr. Ali Safdar Depar, AAG

ORDER

The instant petition was disposed of vide common judgment passed by this Court on 08.05.2019 with the following direction:

“28. The above discussion leads us to an irresistible conclusion that all orders passed in favour of the Respondent No.5 by Respondents No.1 to 4, including his promotion as Deputy Managing Director, SITE in BS-20, after orders of the Honorable Supreme Court as discussed in the preceding paragraphs are violative of law as a result thereof the instant petition is allowed and the up-gradation, promotion, and posting of Respondent No.5 in BS-20 are declared as without lawful authority. Consequently, Office Order dated 27.9.2017 issued by Respondent No.3/Managing Director SITE and Notification bearing No.SOI(SGA&CD)-3/05/2007 dated 15th August 2018 issued by Respondent No.1 are set aside. The SITE shall immediately comply with the judgment of the Honorable Supreme Court in letter and spirit failing which they will be exposed to contempt proceedings along with Respondent No.5 who is beneficiary of the aforesaid act of SITE. All the pending applications are disposed of. Let a copy of this order be communicated to the Chief Secretary, Sindh for information and compliance and for initiating departmental proceedings against all those officials who were responsible of defying orders of the Honorable Supreme Court as narrated in the preceding paragraphs under intimation to the Bench.”

The private respondent being aggrieved by and dissatisfied with the judgment dated 08.05.2019 passed by this Court, preferred Civil Petition No.2008/2019 before the Hon'ble Supreme Court of Pakistan which was dismissed vide order dated 09.12.2020, with the following observation:

“12. The record indicates that the Respondent-SITE as well as the petitioner have gone out of their way of circumvent the judgment of this Court which we have taken serious note of and hereby deprecate it in the strongest of terms. All Institutions and functionaries including but not limited to statutory and non-statutory Organizations, companies, departments, etc and even private citizens in all capacities are bound to respect, obey and implement the orders of this Court under the Constitution of Islamic Republic of Pakistan, 1973 which is the supreme law of the land. It is highly disappointing and deeply regrettable that a conscious effort was deliberately made by the petitioner in connivance with Respondents No.2 to 5 to violate the command of the Constitution in such a blatant and flagrant manner as noted above.

13. Perusal of the impugned judgment of the High Court shows that all material issues raised before it in the constitutional petition and all pleas taken by the petitioner in his defence were duly considered and elaborately discussed in light of the relevant law, rules, and regulations as well as the Constitution of the Pakistan and the relevant judgments of this Court. We have been unable to persuade ourselves to come to a different conclusion. The learned counsel for the petitioner

has been unable to show that the impugned judgment of the High Court suffers from any legal, procedural or jurisdictional defect, error, or flaw that may furnish basis or justification for grant of leave to appeal.

14. For reasons recorded above, we do not find any merit in this petition. It is accordingly dismissed. Leave to appeal is refused."

Petitioner filed an application under Section 3 & 4 of the Contempt of Court Ordinance 2003 (CMA No.) for initiation of contempt proceedings against the alleged contemnor on account of his willful, intentional and deliberate act of disobeying the above-mentioned order passed by this Court.

This is a simple case of enforcement of the order dated 09.12.2020 passed by the Hon'ble Supreme Court of Pakistan in Civil Petition No. 2008/2019 as discussed supra.

We have also scrutinized the compliance report submitted on behalf of the alleged contemnor; prima-facie the explanation offered by the Respondents vide concise statement is not tenable under the law. The Petitioner has pointed out malice on the part of the alleged contemnor warranting interference of this Court to take action against the alleged contemnor under Article 204 of the Constitution, who failed and neglected to take disciplinary action against the officials instrumental to the promotion of the private respondent.

In view of the facts and circumstances of the case and for the reasons alluded above, we are not satisfied with the explanation offered by the alleged contemnor that substantial compliance of the order 09.12.2020 passed by the Hon'ble Supreme Court of Pakistan in Civil Petition No. 2008/2019 as well as passed by this Court has been made in its letter and spirit. Therefore, at this juncture, prima facie, Petitioner has made out a case for initiating contempt proceedings against the alleged contemnor. Therefore, the office is directed to issue a show-cause notice to the alleged contemnor under section 17 (1) of the Contempt of Court Ordinance 2003 read with Article 204 of the Constitution, as to why contempt proceedings should not be initiated against him for willful defiance of the order dated order 09.12.2020 passed by the Hon'ble Supreme Court of Pakistan in Civil Petition No. 2008/2019, as he utterly failed and neglected to initiate departmental proceedings against all those officials who were responsible for defying orders of the Honorable Supreme Court as narrated in the preceding paragraphs. In the intervening the serving delinquent officials shall not be given field posting and/or promotion. The listed application bearing (CMA No.2760/2019), is adjourned to be taken up after two weeks. The alleged contemnors shall be in attendance on the next date of hearing for further proceedings on the contempt application.

JUDGE

JUDGE